EXHIBIT 1

Page 1

1   MICHAEL SHAMOS

2   UNITED STATES DISTRICT COURT

3   FOR THE DISTRICT OF MASSACHUSETTS

4   -   -   -

5   ANYWHERECOMMERCE,   :   CIVIL DOCKET

    INC.,and BBPOS LIMITED   :

6   :

                 PLAINTIFFS   :   NO.

7   :   1:19-cv-11457-IT

            vs.   :

8   :

    INGENICO, INC., INGENICO   :

9   CORP., and INGENICO   :

    GROUP SA   :

10   :

                 DEFENDANTS   :

11   :

12   -   -   -

13   REMOTE DEPOSITION OF

14   MICHAEL SHAMOS

15   -   -   -

16   Taken remotely, via Zoom, on Tuesday,

17   May 17th, 2022, beginning at 10:00 a.m., before

18   Beau Dillard, RPR, a Notary Public in and for

19   the Commonwealth of Pennsylvania, State of

20   New York and Certified Registered Professional

21   Reporter.

22   -   -   -

23   VERITEXT NATIONAL COURT REPORTING COMPANY

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2   language of the trade secret statutes.

3   Q.   Okay.

4   A.   So a trade secret has to not be

5   readily ascertainable by proper means.

6   Q.   Uh-huh.

7   A.   It is readily ascertainable by

8   -- so it's not a trade secret. And so

9   sometimes reverse engineering is readily

10   ascertainable, sometimes it isn't.

11   So, for example, if -- if

12   equipment costing fifty million dollars is

13   required to do the reverse engineering, like

14   you have to put the thing under some kind of

15   scanning electronic microscope, then it might

16   not be readily ascertainable, but if it is

17   ascertainable, it is not a trade secret.

18   Q.   You'll agree that you did

19   nothing to determine whether or not Ingenico in

20   fact reverse engineered any of the trade

21   secrets alleged by BBPOS; correct?

22   A.   I have no evidence that they did

23   and it doesn't matter.

24   Q.   Okay. And you did not

25   personally undertake any effort to reverse

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2   Q.   Summaries, correct. All right.

3   So the first one in Paragraph 18, you state

4   Mr. Zatkovich has not shown that any of the

5   alleged trade secrets were actually trade

6   secrets. In fact, they're not.

7   A.   Yeah. That's two opinions.

8   Q.   Okay. When you say in fact,

9   they're not. Are you referring -- what are you

10   referring to?

11   A.   So something is not a trade

12   secrets if it has appeared in published

13   sources. Something is not a trade secret if it

14   is readily ascertainable by a proper mean.

15   Q.   Uh-huh.

16   A.   In every case for all the

17   alleged trade secrets, they were either

18   disclosed in publically available sources or

19   they were readily ascertainable by proper

20   means.

21   Q.   Okay. So I -- in going through

22   your report, and I think it's consistent with

23   the statements you've made today, you've

24   expressed the opinion that conceptionally,

25   these trade secrets alleged by BBPOS are

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2   Q.   So you said here any detection

3   embodied in any BBPOS circuits could be readily

4   ascertained by reverse engineering.

5   Do you see that?

6   A.   Yes. You open the box and you

7   look at the circuit.

8   Q.   Okay. Is that the basis for

9   your opinion?

10   A.   Yes.

11   Q.   Okay is there any other

12   information that you -- or data that you looked

13   at that would be also relevant to the

14   conclusion that you reached?

15   A.   Don't need any. If you allege

16   that a circuit is a trade secret and you put

17   your circuit in publically available devices,

18   it's no longer a trade secret, that's why we

19   have patents.

20   Anybody can open it up look at

21   it and say, oh, I can use that. I'll put that

22   in my device, no prohibition against that

23   unless it's patented.

24   Q.   Does your conclusion in this

25   regard necessarily assume that it's in the

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2   the nature of the contract was between the

3   holder of the device and the emitter of the

4   device. If they were under obligation of

5   confidentiality and had a prohibition against

6   reverse engineering, then that would not

7   officiate the trade secret.

8   Q.   Okay. Let's -- let's move to 95

9   of your report and this is just as a preview, I

10   think these are all going to be references to

11   the reverse engineering. So that's 95.

12   A.   Same answer to both questions.

13   Q.   Okay. So this is the basis of

14   your opinion is that it is a circuit and once

15   it's in the public realm, it is capable of

16   being reverse engineered?

17   A.   Well, it -- it's not actually

18   even reverse engineering, it's just looking and

19   seeing what it is. And just taking it and

20   putting it in your own product. Reverse

21   engineering implies that you have to do some

22   work to figure out how it works so you can

23   understand its principle of operation.

24   That would not be necessary,

25   once you identified that this is a polarity

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1                    MICHAEL SHAMOS
2                C E R T I F I C A T E
3
     COMMONWEALTH OF PENNSYLVANIA:
4
     COUNTY OF PHILADELPHIA:
5
6         I, Beau Dillard, RPR, a Notary Public
     within and for the County and State aforesaid,
7    do hereby certify that the foregoing deposition
     of MICHAEL SHAMOS was taken before me, pursuant
8    to notice, at the time and place indicated;
     that said deponent was by me duly sworn to tell
9    the truth, the whole truth, and nothing but the
     truth; that the testimony of said deponent was
10   correctly recorded in machine shorthand by me
     and thereafter transcribed under my supervision
11   with computer-aided transcription; that the
     deposition is a true record of the testimony
12   given by the witness; and that I am neither of
     counsel nor kin to any party in said action,
13   nor interested in the outcome thereof.
14        WITNESS my hand this 20th day of May, 2022.
15
16
17
                     _____
18                   Beau Dillard, RPR
                     Notary Public
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